IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO.1286 OF 2006

Shantilal Gundu Khot ..Petitioner

Vs.

Education Inspector Greater Bombay and 2 Ors. ..Respondents

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Mr.A.V.Anturkar with Mr.S.B.Deshmukh
Advocate for Petitioner
Mr.M.D.Naik AGP for Respondents

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CORAM: F.I.REBELLO AND SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 13, 2006

P.C.

1. The case of the petitioner is that the petitioner belongs to O.B.C. category. The vacancy in the school was O.B.C. category and as such refusal by the Respondents to grant approval to open candidate, is without authority of law. On behalf of Respondents, it is pointed out that they have surplus employee and as when there are vacancies available, these surplus employees are appointed against the said posts. As per Rules in force, if teacher becomes surplus, Government has to pay the salary to

the teacher. In these circumstances, Rules have been made to accommodate surplus employees against the vacancies which arise.

2. On behalf of Respondents, it is pointed out that post in fact, is not reserved as it is a single post.

3. Considering the above, we need not decide the larger issue as to whether against a reserved seat, a surplus employee belonging to open category, can be appointed. Suffice it to say that we cannot direct the Respondent-Government to make payment for teachers who are surplus and also to grant aid to another teacher when the Government has on its roster surplus employees.

4. Considering the above, in our opinion, this is not a fit case for us to exercise our extra ordinary jurisdiction. Hence, petition is rejected.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]